GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

B.C. Welfare Department - Appeal Petition filed by Sri Shaik Ghouse Ahamad, S/o Moqthiyar, R/o Nandhavaram Village, Maripadu Mandal, SPSR Nellore District, against cancellation of 'Dudekula' (BC-B) caste certificate issued in favour of Sri Shaik Subhan Basha, S/o Shareef vide Proceedings Rc.C5(M)44/2019, dated.12.06.2021by the Collector and District Magistrate, SPSR Nellore District under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

BACKWARD CLASSES WELFARE (F) DEPARTMENT

G.O.Ms.No.18 **Dated: 01.03.2024.**
Read the following:

1. Proceedings Rc.C5(M)44/2019, dated.12.06.2021.of the District Collector and Magistrate, SPSR Nellore District.
2. Orders of the Hon'ble High Court in W.P.No.13346/2019, dated:07.12.2021.
3. Appeal Petition dated: 25.07.2021 filed Sri Shaik Ghouse Ahamad, S/o Moqthiyar.
4. Govt. Memo.1449/BCW/F/2021, dated:21.08.2021.
5. From the Collector and District Magistrate, SPSR Nellore, Letter Rc.C5(M)44/2019, dated.02.11.2021.
6. Govt. Memo.1486000/BCW/F/2023, dated:06.02.2024.

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ORDER:

In the reference 1st read above, the Collector and District Magistrate, SPSR Nellore District has passed orders cancelling "Dudekula (BC-B)" Caste Certificate issued in favour of Sri Shaik Subhan Basha S/o Shareef.

2. Sri Shaik Ghouse Ahamad, S/o Moqthiyar filed W.P.No.13346/2019 in the Hon'ble High Court of A.P. and prayed to consider his candidature to the post of School Assistant (Social) as per the DSC 2018 notification, while also seeking a declaration that respondents No.7 and No.8, Shaik Bhaji and Shaik Subhan Basha respectively, are ineligible for selection under the BC-E category.

3. In the reference 2nd read above, the Hon'ble High Court while disposing the said writ petition, ordered that since there is no cancellation of the certificate issued in favor of the 8th respondent/Sri Shaik Subhan Basha, S/o Shareef as of the current date, the 8th respondent shall be deemed to be a member of the BC-E category. Further, any appointment of the 8th respondent, if made, will be subject to the final result of the appeal filed by the petitioner before the Government.

4. In the reference 3rd read above, Sri Shaik Ghouse Ahamad, S/o Moqthiyar, R/o Nandhavaram Village, Maripadu Mandal, SPSR Nellore District filed an appeal petition stating that Sri Shaik Subhan Basha has availed the

benefits under BC-B (Doodekula) since his birth till the year 2016 and having failed to secure a Government job through DSC 2012 and 2014. Subsequently, Sri Shaik Subhan Basha has applied for caste certificate in the year 2016 as BC-E (Shaik) even though he does not belong to the same, suddenly changed his caste as BC-E (Shaik) just to avail the benefit of reservation. Further, he contended that there are numerous persons belonging to Shaik name even in BC-B (Doodekula) category as per the DSC-2018 and that merely because a person has Shaik name, he will not belong to BC-E category and ought not to have concluded that Sri Subhan Basha belongs to BC-E and prayed to allow the appeal by setting aside the orders of the Collector and District Magistrate, SPSR Nellore vide reference 1st read above.

5. Upon examining the appeal petition, the Government have admitted it and called for the para-wise remarks and connected records from the Collector and District Magistrate, SPSR Nellore District vide reference 4th read above.

6. In the reference 5th read above, the Collector and District Magistrate, SPSR Nellore District has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Shaik Ghouse Ahamad, S/o Moqthiyar.

7. In the reference 6th read above, hearing notice was issued to the Appellant, respondent and concerned officials to attend for hearing on 06.02.2024 before the Appellate Authority/Government. Accordingly, the Appellant Sri Shaik Ghouse Ahamad, S/o Moqthiyar, Sri Shaik Firoz and respondent/Shaik Subhan Basha along with his counsel Sri U. Nagendra Babu, Advocate have attended hearing, where a representative from the Office of the District BC Welfare Officer on behalf of Office of the District Collector, SPSR Nellore was also present.

8. After hearing both the sides and on perusal of the records/the copies of evidences/academic record/grounds filed by the parties/the parawise remarks submitted by the Collector and District Magistrate, SPSR Nellore, the Appellate Authority observed that :

BRIEF CONTENTIONS OF THE APPELLANT:

(i) That the Respondent No.1/Collector and District Magistrate, SPSR Nellore failed to see that the benefit extended under G.O.Ms.No.23 BCW (C2) Dept., dated:07.07.2007 was only to those persons who were not included earlier in A/B/C/D categories and any person having availed the benefit under these categories is not eligible to be included as BC-E caste.

(ii) That Sri Shaik Subhan Basha has availed the benefits under BC-B (Doodekula) since his birth till the year 2016 and having failed to secure a Government job through DSC 2012 and 2014. Subsequently, Sri Shaik Subhan Basha has applied for caste certificate in the year 2016 as BC-E (Shaik) even though he does not belong to the same, suddenly changed his caste as BC-E (Shaik) just to avail the benefit of reservation.

(iii) That there are numerous persons belonging to Shaik name even in BC-B (Doodekula) category as per the DSC-2018 and that merely because a person has Shaik name, he will not belong to BC-E category and ought not to have concluded that the Sri Subhan Basha belongs to BC-E and prayed to allow the appeal by setting aside the orders of the Collector and District Magistrate, SPSR Nellore vide Proceedings

Rc.C5(M)44/2019, dated.12.06.2021 of the District Collector and Magistrate, SPSR Nellore District.

BRIEF REMARKS OF THE RESPONDENT-1:

a) That during the detailed enquiries conducted at field level by the Revenue and BC Welfare Officers, it was clearly established that Sri Shaik Subhan Basha S/o. Shareef does not belongs to Dudekula (BC-B) community and he belongs to Shaik (BC-E) community. It is not correct to say that any person having availed the benefit under "A", "B", "C" and "D" Categories of Backward Classes is not eligible to be included in BC-E category. Any person, who genuinely belongs to any one of 14 classes of Muslims that are included in BC-E category are eligible to be included in BC-E category. The District Level Scrutiny Committee also unanimously resolved that Sri Shaik Subhan Basha, S/o. Shareef belongs to Shaik (BC-E) community, but not belongs to Dudekula (BC-B) community.

b) That caste status may be manipulated by some parents with malafide intentions to claim reservation benefits, making it unreliable to determine an individual's caste solely based on reservation benefits or school records, as there is no prescribed mechanism for caste verification during school admissions.

c) That Sri Shaik Subhan Basha stated that due to his father's illiteracy, his caste was erroneously recorded as BC-B in school records. He emphasizes that he never benefited from BC-B privileges and identifies himself as belonging to the Shaik (BC-E) caste, not Dudekula (BC-B).

d) That it is correct to say that Sri Shaik Subhan Basha S/o. Shareef has not surrendered the Dudekula (BC-B) caste certificate for cancellation before applying for Shaik (BC-E) caste certificate. But, the Respondent No.1 (i.e., the District Collector, SPSR Nellore District) has responded immediately and properly and the matter has been referred to the District Level Scrutiny Committee (DLSC) for conducting detailed enquiry and offer findings on the caste status of Sri Shaik Subhan Basha S/o. Shareef. Hence, there is no violation of Act & Rules.

e) That after conducting detailed enquiry, the Revenue Divisional Officer, Nellore, vide Rc.G.846/2019, dt.02.01.2020 and the District BC Welfare Officer, Nellore, vide Rc.No.A1/63/19, dt.13.02.2020, have submitted detailed report confirming that Sri Shaik Subhan Basha S/o. Shareef belongs to Shaik (BC-E) community. Hence, the caste of the individual was confirmed as Shaik (BC-E), but not Dudekula (BC-B).

f) That the people having surname "Shaik" do not belong to a particular caste i.e., not only belong to "Shaik (BC-E)" but also belong to "Dudekula (BC-B)". The caste of a person cannot be decided only basing on his/her surname. In the present case, the caste status of Sri Shaik Subhan Basha S/o. Shareef was not decided basing on his surname. The caste status of Sri Shaik Subhan Basha S/o. Shareef was confirmed as "Shaik (BC-E) basing on the following points :

    (i) The Revenue Divisional Officer, Nellore, vide Rc.G.846/2019, dt.02.01.2020, has reported that during the enquiry it was established that Sri Shaik Subhan Basha S/o. Shareef belongs to Muslim caste, but obtained Dudekula caste certificate and not availed any benefits for employment and recommended to consider his caste as Muslim (BC-E).

(ii) The District BC Welfare Officer, Nellore, vide Rc.No.A1/63/19, dt.13.02.2020, has reported that during the enquiry it is established that the family of Sri Shaik Subhan Basha S/o. Shareef following the rituals, traditions and customs during marriages and death ceremonies/method of burial of dead bodies and also attending prayers 5 times a day, wearing of burakha etc., as per Muslim religion and hence they can be confirmed as they belong to BC-E category.

(iii) All the relatives of the individual were issued "Shaik (BC-E)" community certificates. Since, the relatives of the individual are in the fold of Shaik (BC-E) community, the individual can also be considered as he belonged to Shaik (BC-E) community.

(iv) The Noor Basha (Dudekula) Backward Muslim Welfare Association, Nellore has confirmed that the individual does not belongs to Dudekula community.

(v) The President, Masjid-E-Aksa, Podalakur Road, Nellore has declared the family of individual belongs to Shaik (BC-E) community. Since, each community/religion of people will have their own specific the rituals, traditions and customs, acceptance of an individual by a specific community people is the crucial point to prove the caste status of an individual, i.e., it will establish that the particular person is following the rituals, traditions and customs of that community/religion.

(vi) That the District Collector, SPSR Nellore District has stated that the appeal petition deserves no consideration and hence, the same may be dismissed as the respondent No.2 i.e., Sri Shaik Subhan Basha S/o. Shareef does not belong to Dudekula (BC-B) community,

9. The Government (Appellate Authority) is opined that the findings of the District Level Scrutiny Committee is clearly evident that Sri Shaik Subhan Basha does not belong to the 'Dudekula (BC-B)' community. The Dudekula (BC-B) Caste Certificate issued to him was canceled by the Collector and District Magistrate, SPSR Nellore District, who declared Sri.Subhan Basha belonging to the 'Shaik (BC-E)' community and criminal proceedings filed against him were dropped on humanitarian grounds vide reference 1st read above. Therefore, the opinion rendered by the DLSC/Collector and District Magistrate, SPSR Nellore District holds good.

10. Government after careful examination of the entire matter and in exercise of the powers conferred under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), decide that the appeal petition filed by Sri Shaik Ghouse Ahamad, S/o Moqthiyar does not deserve any interference. Hence, Proceedings of the Collector and District Magistrate, SPSR Nellore District issued in the reference 1st read above is hereby upheld duly dismissing the appeal petition filed by Sri Shaik Ghouse Ahamad, S/o Moqthiyar.

11. The Collector and District Magistrate, SPSR Nellore District is directed to take necessary consequential action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.ANANTHA RAMU
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Collector and District Magistrate, SPSR Nellore District (relevant original records enclosed).

Sri Shaik Ghouse Ahamad, S/o Moqthiyar, R/o. Nandhavaram Village, Maripadu Mandal, SPSR Nellore District.

Sri Shaik Subhan Basha, S/o Shaik Shareef,
R/o D.No.25-2-1888, 6th street, Pragathi Nagar,
Nellore, SPSR Nellore District.

Copy to:

The Director, B.C.Welfare, A.P., Vijayawada.
The OSD to Hon' Minister (BCW).
PS to Spl. CS to Government, B.C. Welfare Department, A.P. Secretariat, Velagapudi.

//FORWARDED::BY ORDER//

S.C.

SECTION OFFICER

01/03/12